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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,973	04/14/2000	Barbara Westfield	830053.410	2231

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

12

DATE MAILED: 06/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/551,973

Applicant(s)

WESTFIELD, BARBARA

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on April 24, 2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/551,973 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Pollock [Pat. No. 2,251,600].

Pollock teaches a bread baking device comprising a frame (Figure 1, #5), the frame having two sidewalls and a base member (Figure 1, #14 & 20), vertically spaced, removable trays (Figure 1, #21-22), the frame having an opening large enough to place and remove the trays (Figure 1), the trays having holes to facilitate airflow (Figure 3, #21), a baking chamber (Figure 1, #8), the base member being coupled to the bottom of the baking chamber (Figure 1, #34), a handle (Figure 1, #16), and a source of heat (page 1, column 2, line 17).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barradas [Pat. No. 5,445,061] in view of Pollock.

Regarding the apparatus claims 11-15: Barradas teaches a bread baking device comprising a housing with a baking chamber (Figure 5, #12 & 22), a mixing motor (Figure 2, 14), a frame with a base member coupled to a bottom region of the baking chamber (Figure 5, #48, 54, 56), vertically-spaced, removable trays (Figure 4, #48; Figure 5, #58, 60, 62), the trays having holes to facilitate airflow (Figure 4, #48), a heating element (column 2, line 45), and a container for bread making ingredients (Figure 2, 24). Barradas does not teach a frame with two sidewalls which hold the removable trays or a handle. Pollock teaches a bread baking device comprising a frame (Figure 1, #5), the frame having two sidewalls and a base member (Figure 1, #14 & 20), vertically spaced, removable trays (Figure 1, #21-22), the frame having an opening large enough to place and remove the trays (Figure 1), and a handle (Figure 1, #16). It would have been obvious to one of ordinary skill in the art to incorporate the frame structure of Pollock into the invention of Barradas since both are directed to bread baking devices, since Barradas already includes a frame, and since the sidewalls and handle of Pollock would permit the entire frame to be inserted through the top door of

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Barradas as a single unit, rather than as separate pieces which can be difficult to stack in a heated environment, such as the baking chamber of Barradas.

Regarding method claims 16-17: Barradas teaches a method of baking bread by mixing the ingredients in the container to form a dough, dividing the dough into portions, placing the portions into trays supported by a frame structure, and baking the dough (column 2, lines 57-70). Barradas does not teach a frame with two sidewalls which hold the removable trays. Pollock teaches a bread baking device comprising a frame (Figure 1, #5), the frame having two sidewalls and a base member (Figure 1, #14 & 20), vertically spaced, removable trays (Figure 1, #21-22), the frame having an opening large enough to place and remove the trays (Figure 1), and a handle (Figure 1, #16). It would have been obvious to one of ordinary skill in the art to incorporate the frame structure of Pollock into the invention of Barradas since both are directed to bread

baking methods, since Barradas already includes a frame, and since the sidewalls and handle of Pollock would permit the entire frame to be inserted through the top door of Barradas as a single unit, rather than as separate pieces which can be difficult to stack in a heated environment, such as the baking chamber of Barradas.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reuland [Pat. No. 2,842,043] and Larsen [Pat. No. 1,583,295] teach cooking devices with racks.

Response to Arguments

7. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.



Drew Becker
May 30, 2002